IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 295 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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N C SOLANKI

Versus

STATE OF GUJARAT AND ANOTHER

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Appearance :
MR KG SUKHWANI for the applicant.
MS PB SHETH, ASST. GOVT. PLEADER for Opponents No.1 - 2.
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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 20/03/2006

ORAL JUDGMENT

This Revision Application is filed under section 12 of the Gujarat Public

Works Contracts Disputes Arbitration Tribunal Act, 1992.

The petitioner herein filed Arbitration Reference No. 43 of 2001 before the Gujarat Public Works Contracts Disputes Arbitration Tribunal, Ahmedabad claiming Rs.52,505-69 towards interest alleging breach of contract on the part of the petitioner. The Tribunal, by its order dated 3.8.2001 rejected the claim made by the petitioner, against which the present Revision Application is filed.

It was the case of the petitioner before the Tribunal that even though the petitioner completed the contract work within the stipulated time, the amount was not paid in time and therefore, the respondents are liable to pay interest thereon at 18%. The petitioner therefore filed the aforesaid Arbitration Reference claiming Rs.46,690-69 towards interest, notice fee charges of Rs.1500/- and refund of the FDR which was furnished at the time of entering into the contract, with interest. The Tribunal, after considering the facts of the case and the decision of the Honourable Supreme Court in UNIONOF INDIA vs. POPULAR BUILDERS, CALCUTTA, 2000(3) Arb. LR 522 (SC) held as under in paragraph 3 of the order as under :-

> "3. In this case, as stated above, it is made clear that the final bill was prepared and amounts thereof were paid and the petitioner accepted the same without any objection. When that is so, in view of the above stated law made clear in the decision referred to hereinabove, the cause to refer the matter to the arbitration, i.e. to this Tribunal for adjudication does not survive."

Being aggrieved by the said order rejecting the Reference, the original applicant has filed this Revision Application.

Learned advocate Mr. Sukhwani is not in a position to attack the said order nor is he in a position to satisfy the Court as to how any jurisdictional error is committed. He has in fact fairly stated that there is no jurisdictional error.

In view of the judgment of the Honourable Supreme Court in Hindustan Aeronautics vs. Ajit Prasad, AIR 1973 SC 76, the powers of this Court under section 115, CPC, is very limited. Even if there is an error of law, this Court cannot correct such error in exercise of its powers under section 115, CPC. In the facts and circumstances of this case, the order does not suffer from any jurisdictional error or error of law. Hence this Revision is not maintainable and is rejected accordingly. Rule is discharged. No order as to costs.

[P. B. MAJMUDAR, J.]

mathew